

**In the High Court of New Zealand  
Auckland Registry**

**I Te Kōti Matua O Aotearoa  
Tāmaki Makaurau Rohe**

CIV-2019-404-2682

**under the Judicial Review Procedure Act 2016**

between

**Averil Rosemary Norman and Warwick Bruce Norman, directors of Auckland**

**Applicants**

and

**Tūpuna Maunga o Tāmaki Makaurau Authority, a body established under  
section 106 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act  
2014**

**First Respondent**

and

**Auckland Council, a unitary authority established under the Local  
Government (Auckland Council) Act 2009**

**Second Respondent**

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MEMORANDUM OF COUNSEL FOR APPLICANTS AS  
TO TIMETABLING DIRECTIONS

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30 January 2020

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## MEMORANDUM OF COUNSEL FOR APPLICANTS AS TO TIMETABLING DIRECTIONS

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### Background

1. This proceeding relates to the First Respondent's decision to fell 345 non-native trees on Ōwairaka / Mt Albert.
2. On 9 December 2019 timetabling directions were made leading to a one-day fixture set down for 20 March 2020.
3. The proceeding has been brought with some urgency, given the First Respondent had planned to carry out that felling in November/December 2019. To date Ōwairaka / Mt Albert remains occupied by protestors who oppose the First Respondent's decision.

### Amended Statement of Claim

4. Despite the extent of the planned felling, it has become apparent to the Applicants that Auckland Council issued a resource consent for the felling without public notification and (the Applicants say) that that decision was flawed.
5. The Applicants have filed an amended statement of claim in this proceeding, adding a cause of action for judicial review in respect of the resource consent.
6. The review has been filed in this proceeding, mainly because the issues relating to the resource consent largely traverse the same facts as arise in the existing grounds of judicial review.
7. The existing grounds of judicial review (relating to the Reserves Act and consultation) have not changed.

### Timetabling

8. In counsel's submission, the resource consent issues can be dealt with within the current timeframes, and by the provision of additional time to address the resource consent issues. That would ensure that the proceeding is still dealt with urgently, as all parties desire.

9. The Applicant will file a short affidavit tomorrow 31 January 2020 addressing the resource consent.
10. Further evidence from the First Respondent appears unlikely. Evidence will be necessary from the Second Respondent.
11. It is likely however, that a further day will be required for the hearing fixture to deal with issues relating to the resource consent. The Applicants would request a second day be allocated by the Court as soon as possible after 20 March 2020, to enable those aspects of the claim to be heard.
12. The Applicants would respectfully request the following timetabling directions be made:
  - (a) the current timetabling directions remain;
  - (b) the Respondents are to file their statements of defence to the resource consent review and any affidavit evidence in relation to the resource consent by Friday, 21 February 2020;
  - (c) the Applicants are to file any affidavit evidence in reply to that of the Second Respondent by Friday 28 February 2020; and
  - (d) the Registrar, in consultation with Counsel, is to allocate a further hearing date as soon as possible after 20 March 2020.

Dated 30 January 2020



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R J Hollyman QC / JWH Little  
Counsel for the Applicants